

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44967 of 2014

Arising Out of PS. Case No.-79 Year-2013 Thana- LAURIYA District- West Champaran

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Manil Rai @ Manil Kumar Rai Son of Late Lal Babu Rai, Resident of
Village - Gobraura, Police Station - Lauriya, District- West Champaran.

... .. Petitioner

Versus

1. The State of Bihar.
2. Chandi Rai Son of Late Harihar Rai, Resident of Village - Gobraura, Police
Station - Lauriya, District- West Champaran.

... .. Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar No.-7, Adv.

For the Opposite Party/s : Mr. Sunil Kumar Pandey(App)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 11-09-2017 Heard Sri Sanjay Kumar, learned counsel for the petitioner
and Sri Sunil Kumar Pandey, learned Addl. Public Prosecutor.

The sole petitioner has approached this Court, invoking its inherent jurisdiction under Section 482 of the Code of Criminal Procedure, with a prayer to quash an order dated 20.08.2014 passed by the learned 2nd Additional District and Sessions Judge, West Champaran at Bettiah in Sessions Trial No.38 of 2014, arising out of Lauriya P.S. Case No.79 of 2013. By the said order, the learned Sessions Judge has rejected the petition filed on behalf of the petitioner under Section 227 of the Code of Criminal Procedure.

Sri Sanjay Kumar, learned counsel for the petitioner by assailing the impugned order, submits that though it was



consistent case of the petitioner that injury , which was caused by shot fire given by one of the co-accused Birendra Rai, which hit the informant's side, was not brought on record, which is evident from the order of the learned Sessions Judge, the learned Sessions Judge, in a mechanical manner, has rejected the discharge petition. He further submits that during investigation, some other accused, against whom similar accusation was made, were exonerated by the police, but the petitioner and others were forwarded as accused. On the aforesaid ground, a prayer has been made for setting aside the impugned order and discharging the petitioner.

Learned Addl. Public Prosecutor, by way of referring to the impugned order, submits that there is specific case of the prosecution that in the occurrence, number of accused including the petitioner had also fired and fired shot by one of the accused had hit the informant in his abdomen. Of course, at the time of hearing of discharge petition, such injury report was not produced, but he submits that during trial, injury report can be summoned and got exhibited.

Besides hearing learned counsel for the parties, I have also perused the materials available on record including the order impugned. Normally in a criminal case, trial is rule and



discharge is exception and this is the reason that Code of Criminal Procedure prescribes that while allowing discharge petition, the learned court below i.e. either learned Magistrate or the learned Sessions Judge is required to assign reason. Meaning thereby that at the stage of rejection of discharge petition, no detailed reason is required to be assigned. However, in the present case, it is evident that the learned trial judge has referred some of the paragraphs of the case diary and the fact which were collected during investigation and, thereafter, by assigning reason has rejected the petition.

I do not find any apparent error in the order impugned warranting interference.

The petition stands dismissed.

(Rakesh Kumar, J)

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